

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent/Appellee,

v.

CIVIL ACTION NO. 2:03-2193
(Criminal No. 2:01-00103)
Appeal No. 06-7848 (4th Circuit)

RONALD E. WALKER,

Defendant/Movant/Appellant.

ORDER

Ronald E. Walker is serving a 157 month sentence imposed on February 28, 2002. On October 4, 2005, this court denied Walker's Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. Walker subsequently appealed. On July 10, 2007, the United States Court of Appeals for the Fourth Circuit remanded this matter to this court for the limited purpose of determining whether Walker's Notice of Appeal was timely filed.

The matter was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for proposed findings of fact and recommendation for disposition pursuant to 28 U.S.C. § 636(b)(1). On March 10, 2008, the Magistrate Judge submitted proposed findings of fact and recommended that this court find that Walker's Notice of Appeal and Request for Certificate of Appealability were timely filed. Neither party has objected to the Magistrate Judge's proposed findings and recommendation.

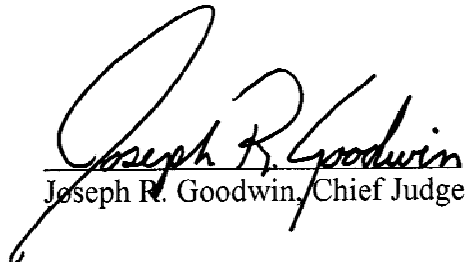
The failure to object to a magistrate judge's report may be deemed a waiver on appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face

of the record in order to accept the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has reviewed the Magistrate Judge's findings of fact and recommendation and finds no clear error on the face of the record. Therefore, the court **ADOPTS** the findings and recommendation of the Magistrate Judge.

The court **FINDS** by a preponderance of the evidence that Walker delivered the relevant documents to prison authorities with proper postage on November 28, 2005, and that the documents should have been delivered to the post office for mailing on November 29, 2005, but were not. The court further **FINDS** that Walker's Notice of Appeal and Request for Certificate of Appealability were timely delivered to prison authorities on or before December 3, 2005.

The court **DIRECTS** the Clerk to prepare a certified supplemental record pursuant to Federal Rule of Appellate Procedure 10(e). The court further **DIRECTS** the clerk to return the record, as supplemented, to the Fourth Circuit. Finally, The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record, any unrepresented party, and the Clerk of the United States Court of Appeals for the Fourth Circuit.

ENTER: March 31, 2008


Joseph R. Goodwin, Chief Judge